

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

**CALVARY BAPTIST CHURCH OF ST.
CROIX, INC.,**

Plaintiff,

v.

**THOSE CERTAIN UNDERWRITERS AT
LLOYD'S OF LONDON SUBSCRIBING TO
POLICY NUMBER B0702PP301800J
SYNDICATE NUMBERS 2003 AND 510;
AND JOHN DOES 1-50,**

Defendants.

1:19-cv-00045

**TO: Javier Delgado, Esq.
Richard P. Bourne-Vanneck, Esq.
Gregory L. Mast, Esq.**

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on Defendants' Certain Underwriters at Lloyd's, London Subscribing to Policy No. B1230GP03499A16 ("Defendants")¹ Motion to Compel Appraisal and Stay Litigation Pending Appraisal (ECF No. 6), Plaintiff's response thereto (ECF No. 8), and the parties' "Joint Stipulation Concerning Underwriters' Partial Motion to Dismiss and Motion to Compel Appraisal and Stay" (ECF No. 18).

This is an insurance coverage action in which Plaintiff alleges that Defendants breached their contractual obligations to it by undervaluing their hurricane-related property

¹ Although "Defendants" are not the only defendants in this case, the Court will refer to them as such for purpose of this Memorandum Opinion And Order. Additionally, as pointed out by Defendants (ECF No. 4 at 1), Defendants are erroneously identified in the Complaint as "Those Certain Underwriters at Lloyd's of London Subscribing to Policy Number B0702PP301800J Syndicate Numbers 2003 and 510."

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damage claim. The Complaint arises out an insurance policy No. B1230GP03499A16 issued to Plaintiff to which Defendants subscribed (the “Policy”). The Policy provides certain insurance coverage to Plaintiff, for the period October 22, 2016, to October 22, 2017, for property located at 90A Upper Love, Frederiksted, St. Croix 00840 (the “Property”). Among the conditions listed in the Policy is an appraisal provision, which states as follows:

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separate the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

1. Pay its chosen appraiser; and
2. Bear the other expenses of the appraisal and umpire equally.

(ECF No. 6-A at 10).

Hurricane Maria hit the Property on September 19, 2017. (ECF No. 1, ¶¶ 11, 14). Plaintiff then filed its Complaint on September 19, 2019. The Complaint contains counts for breach of contract, bad faith, breach of the duty of good faith and fair dealing, and one count for ancillary declaratory relief. In the instant motion, Defendants seek a court order compelling appraisal and a stay of this lawsuit until appraisal is complete. (ECF No. 4). Plaintiff argues in opposition that Defendants waived appraisal by not invoking appraisal for nearly one-and-a-half years from the time that they were first made aware of the estimated damages. (ECF No. 6 at 3). Alternatively, Plaintiff argues that if the Court finds no waiver of

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appraisal, then the Court should stay only the breach of contract claim, because its other claims are “extra-contractual causes of action” and are exempt from the appraisal provision. (ECF No. 6 at 4-5).

However, the parties have since stipulated to an appraisal and stay of proceedings. (ECF No. 18). In their stipulation, the parties have settled various issues and agreed to complete an appraisal by no later than August 31, 2020. As such, the Court will grant the stipulation and finds the motion to compel to be moot.

For the foregoing reasons, it is **ORDERED**:

1. The parties’ “Joint Stipulation Concerning Underwriters’ Partial Motion to Dismiss and Motion to Compel Appraisal and Stay” (ECF No. 18) is **GRANTED**.
2. Defendants Certain Underwriters at Lloyd’s, London Subscribing to Policy No. B1230GP03499A16 (“Defendants”) Motion to Compel Appraisal And Stay Litigation Pending Appraisal (ECF No. 6) is **MOOT**.
3. The case is **STAYED** pending completion of the appraisal process.
4. The parties are to file with the Court a status report concerning the appraisal process no later than **August 31, 2020**.

ENTER:

Dated: August 24, 2020

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
MAGISTRATE JUDGE